**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**CRIMINAL APPEAL NO.164 OF 2004**

The State of Maharashtra ...Appellant

vs.

Popat @ Tanaji Appasaheb Kadam and ors. ...Respondents

Mr.U.V.Nikam,A.P.P. for State

**CORAM: A.S.OKA,J.**
**DATE : NOVEMBER 23,2006.**

**P.C.:**

1. Heard learned A.P.P. for the Applicant in support of the prayer for grant of leave. I have perused the impugned Judgment and Order and notes of evidence of relevant witnesses. The acquittal of the Respondents is for offences punishable under sections 143, 147, 148, 337 and 427 of the Indian Penal Code.

2. The learned A.P.P submitted that the evidence of the complainant Balasaheb Vithoba Shinde- P.W.No.6 as well as the Investigating Officer shows that the blood stained clothes on the person of P.W.no.6 were seized and were sent to the Chemical Analyser. He submitted that this important evidence was completely overlooked by the Trial Court as the blood stained clothes were the proof of allegation of the prosecution as regards injuries sustained by the P.W.no.6 at the hands of the accused persons.

3. It is an admitted position that the Medical Officer was not examined to prove the injuries on the person of the complainant. P.W.No.6 who is the complainant stated in his evidence that at the time of incident the police came to the spot and their intervention was required to bring the situation under control. The correctness of this factual statement by P.W.No.6 in his examination-in-chief has been denied by the Investigating Officer. In any event, none of the policemen who allegedly came to the spot to control the situation were examined as a witness. According to the case of the P.W.No.6, he snatched the chopper from the hands of the accused No.3 and ran away from the spot and took shelter in the house of one Tanubai Shankar Mane. The prosecution has not examined the said Tanubai as a witness.

4. Considering the aforesaid aspects, the learned Trial Judge has disbelieved the case of the prosecution. I find no infirmity in the view taken by the learned Trial Judge. No case is made out for grant of leave. Appeal is dismissed.

**JUDGE**